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14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

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17 CLRB HANSON INDUSTRIES, LLC d/b/a
18 INDUSTRIAL PRINTING, and HOWARD
19 STERN, on behalf of themselves and all others
20 similarly situated,

21 Plaintiffs,

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v.

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GOOGLE, INC.,

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Defendant.

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CASE NO. C 05-03649 JW

**GOOGLE INC.'S NOTICE OF
ADMINISTRATIVE MOTION AND
MOTION FOR LEAVE TO FILE
DOCUMENTS UNDER SEAL**

Date: June 11, 2007

Time: 9:00 a.m.

Dept.: Courtroom 8

Judge: Honorable James Ware

1 **NOTICE OF MOTION AND MOTION**

2 TO PLAINTIFFS CLRB HANSON INDUSTRIES, LLC, d/b/a INDUSTRIAL
3 PRINTING, and HOWARD STERN, AND THEIR ATTORNEYS OF RECORD:

4 PLEASE TAKE NOTICE that on June 11, 2007, at 9:00 a.m., or at such later date and
5 time as the Court may order, in Courtroom 8 of the United States District Court for the Northern
6 District of California, San Jose Division, defendant Google Inc. (“Google”) will move for an
7 order sealing the following documents in support of Google’s Supplemental Brief in Support of
8 Summary Judgment Motion:

- 9 1. **GOOGLE INC.’S SUPPLEMENTAL BRIEF IN SUPPORT OF SUMMARY**
10 **JUDGMENT MOTION**
- 11 2. **SUPPLEMENTAL DECLARATION OF M. CHRISTOPHER JHANG IN**
12 **SUPPORT OF GOOGLE INC.’S SUPPLEMENTAL BRIEF IN SUPPORT**
13 **OF SUMMARY JUDGMENT MOTION (INCLUDING EXHIBITS A-D)**

14 Dated: May 7, 2007

PERKINS COIE LLP

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16 By: /S/
17 M. Christopher Jhang
18 Attorneys for Defendant Google Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 26(c), Civil Local Rules 7-11, and 79-5, defendant Google Inc. (“Google”) makes this Miscellaneous Administrative Request for an Order allowing Google to file under seal certain documents filed in connection with Google’s Supplemental Brief in Support of Summary Judgment Motion.

Specifically, Google requests that the Court file the following documents set forth below under seal:

- 1. GOOGLE INC.’S SUPPLEMENTAL BRIEF IN SUPPORT OF SUMMARY JUDGMENT MOTION**
- 2. SUPPLEMENTAL DECLARATION OF M. CHRISTOPHER JHANG IN SUPPORT OF GOOGLE INC.’S SUPPLEMENTAL BRIEF IN SUPPORT OF SUMMARY JUDGMENT MOTION (INCLUDING EXHIBITS A-D)**

Good cause exists justifying the filing of the above pleadings and exhibits under seal because these pleadings and exhibits contain, discuss, or refer to Google’s trade secret and/or confidential competitive and business information. Google’s Supplemental Brief and the supporting declaration contain, discuss, or refer to specific trade secret and/or confidential competitive and business information of Google. In addition, Exhibits A-D of the Supplemental Jhang Declaration also contain, discuss, or refer to Google’s trade secret and/or confidential competitive and business information. Accordingly, Google could be irreparably harmed if such trade secret and/or confidential information is made available to the public.

II. ARGUMENT

A. Good Cause Exists to Protect Google’s Trade Secret and/or Confidential Business and Competitive Information.

Upon a showing of good cause, a court may make any order that justice requires to protect a party, including an order “that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way.” FED. R. CIV. P. 26(c)(7). In particular, a court may order that court documents be filed

under seal where such good cause is shown to override the public's right to access. *See San Jose Mercury News, Inc. v. U.S. Dist. Ct.*, 187 F.3d 1096, 1103 (9th Cir. 1999). The factors relevant to a determination of whether the presumption of access is overcome include "the public interest in understanding the judicial process and whether disclosure of the material could result in improper use of the material for . . . infringement upon trade secrets." *Hagestad v. Tragesser*, 49 F.3d 1430, 1433-34 (9th Cir. 1995) ("Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes.") (citations and quotations omitted).

Good cause exists for this Court to grant this Miscellaneous Administrative Request. Google seeks to file under seal documents which contain, discuss, or refer to Google's trade secret and/or confidential business and competitive information. If any of this trade secret and/or confidential information is not sealed and is permitted to be in the public record, Google may suffer irreparable harm if competitors have access to such information.

B. The Request for Filing Under Seal is Narrowly Tailored.

This Miscellaneous Administrative Request should be granted because it is narrowly tailored to cover only the documents to be filed for which good cause for filing under seal exists.

III. CONCLUSION

For the reasons set forth above, good cause exists to file the above-referenced documents, which contain, discuss, or refer to Google's trade secret and/or confidential business and competitive information, under seal. Further, this request is narrowly tailored to seal only trade secret and/or confidential information. Google respectfully requests that the Court grant its Miscellaneous Administrative Request in the form of the [Proposed] Order filed herewith.

Dated: May 7, 2007

PERKINS COIE LLP

By: _____ /S/

M. Christopher Jhang
Attorneys for Defendant Google Inc.